IN THE HIGH COURT OF JUDICATURE AT BOMBAY

O.O.C.J.

WRIT PETITION NO. 3139 OF 2006

The Bombay Catholic Co-Op. Housing Society Ltd. ... Petitioner.

V/s.

The Deputy Registrar Co-op Society & Others. ... Respondents.

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Mr. Vinit Naik with Mr. D.R. Mehta i/b. Dhruve Liladhar & Co. for the Petitioner.

Mr.P.K. Dhakephalkar i/b. Navin Bhoir for Respondent No.2.

M. K.R. Belosey, Acting Govt. Pleader for Respondent Nos.1 and 3.

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CORAM : DR. D.Y.CHANDRACHUD,J.

20TH DECEMBER, 2006.

P.C. :

1. Section 152-A of the Maharashtra Cooperative Societies' Act, 1960 inter alia provides that notwithstanding anything contained in the Act, the Rules or the Bye Laws a person aggrieved by the rejection of a nomination of a candidate at the election of a committee of any Society, other than a specified society, may file an appeal to the

Registrar within three days of the date of the rejection of the nomination. Aggrieved by the rejection of his nomination, the Second Respondent preferred an appeal to the Registrar which was allowed by the order dated 22nd November 2006. The order is impugned in these proceedings.

2. At this stage, it would manifestly not be appropriate for the Court to exercise the extraordinary jurisdiction under Article 226 where the election process is underway and the elections are to be held. The Registrar has held that both the Second Respondent and the proposer were members of the Society. The ground for rejection of the nomination was that the proposer had "dealt" in his shares and property and that he was no longer a beneficial holder of shares "which now vest with a sub-society" under Bye-law 10. The Registrar, while allowing the Appeal has rejected the contention that the proposer has ceased to be a member merely by virtue of the fact that he has sought an N.O.C. to constitute a sub-society. Prima facie, this finding cannot be regarded as perverse or contrary to the express language of

Bye-law 10(b) which provides that it is on the **registration** of a building sub-society that the leasehold right, title, interest and obligations shall be transferred to such building sub-society. Admittedly, no such sub-society has been registered as on date. In any event, it is not necessary or appropriate for this Court to express any finding or conclusive opinion at this stage. These observations are confined to the question as to whether the Appellate Authority had a valid basis to allow the appeal against the rejection of the nomination. Any person aggrieved by the result of the election would have recourse to the remedies which are available in law, by filing a dispute under Section 91 of the Maharashtra Co-operative Societies' Act, 1960. The interference of this Court is not warranted at the present stage when the electoral process is yet to be completed.

3. The Petition is accordingly rejected.